

**MINISTRY OF ATTORNEY GENERAL
GAMING POLICY AND ENFORCEMENT BRANCH
BRIEFING NOTE**

PURPOSE: For INFORMATION for David Eby, QC,
Attorney General

ISSUE: Establish a more effective and flexible regulatory model for gambling¹ in BC

SUMMARY:

- The German report recommended:
 - clarifying the roles and responsibilities of the regulator and BCLC;
 - making the regulator the regulator of BCLC; and
 - implementing a standards-based regulatory model.
- On March 7, 2019, Cabinet's Priorities & Accountability (PA) Committee supported a standards-based approach modeled on Ontario's gambling regulatory framework.
- Gaming Policy and Enforcement Branch (GPEB) has worked with LSB to develop a proposal for a regulatory scheme that is modeled on Ontario's framework, but adapted for BC. Key differences include the inclusion of both general manager regulations and compliance standards as well as the compliance regime for the BC Lottery Corporation (BCLC).

BACKGROUND:

- The *Gaming Control Act* (GCA) establishes the regulatory framework for gambling in British Columbia, setting out the roles and responsibilities for GPEB and BCLC. GPEB is responsible for administering the GCA with respect to the "overall integrity" of gambling and horse racing while BCLC is responsible for the "conduct and management" of gambling.
- The GCA creates a complicated and fragmented regulatory system that does not meet the needs of the commercial gambling industry because it does not provide the regulator with authority to set comprehensive, overarching expectations on matters of integrity for the entire sector.
- The GCA establishes GPEB as the gambling regulator as well as the entity responsible for providing policy advice to government on matters related to gambling integrity and business matters (including revenue generation).
- BCLC contracts with private industry service providers through Operational Services Agreements (OSAs) for the day-to-day operation of gambling facilities. BCLC directly operates online gambling through its PlayNow.com platform.

¹ The current *Gaming Control Act* uses the term 'gaming'. It is proposed the term 'gaming' should be replaced with 'gambling' in the new legislation.

- GPEB does not have the statutory authority to effectively regulate BCLC as an agent of government and the largest entity in the industry. Instead, the GCA envisions GPEB and BCLC acting in concert under the responsibility of a single Minister.
- The current model also creates confusion and overlap between BCLC and GPEB's roles. While GPEB sets conditions of registration for gaming service providers and may sanction for non-compliance, BCLC sets prescriptive rules and has remedies for non-compliance through contractual remedies contained in its OSAs. GPEB also audits and holds service providers accountable for compliance with BCLC's rules. Therefore, as the entity responsible for setting operational policies in the absence of overarching regulatory expectations, BCLC is sometimes seen as acting in a quasi-regulatory fashion. (See Appendix A for more detail on current model)
- The German report identifies the unclear regulatory framework and GPEB's lack of tools to regulate BCLC as key contributing factors to money laundering in BC casinos.²

Standards-Based Model

- German recommended implementation of a standards-based regulatory approach similar to the model used in Ontario. The intent of this model is to focus on outcomes and provide the industry with flexibility to meet the outcomes in ways that better suit their business needs when compared to traditional, prescriptive regulatory models. As such, the standards are generally not objective or measurable as they are currently promulgated.
- The Ontario legislation provides the regulator with authority to set standards and requirements for the sector on eight broad categories unless a Lieutenant Governor in Council (LGIC) regulation already exists for a particular matter. Registrants and the Ontario Lottery and Gaming Corporation are required to comply with the standards and requirements as a stand-alone legal requirement contained in the statute, and non-compliance is subject to various regulatory consequences, including suspension, cancellation, non-renewal of registration, and imposition of monetary penalties. It is also an offence for a person to contravene or not comply with standards and requirements.
- In practice, Ontario undertakes extensive consultation with industry to establish the standards and engages in ongoing risk assessment to ensure the standards remain relevant and do not place undue burden on regulated entities. Ontario takes a compliance, rather than an enforcement, approach and dedicates resources to educating and working with regulated entities to bring them into compliance with standards. BC anticipates adopting these key features of the model's success in the operationalization of a similar model in BC.

² *Dirty Money: An Independent Review of Money Laundering in Lower Mainland Casinos conducted for the Attorney General of British Columbia*, Dr. Peter German, QC, pg. 12.

- On March 7, 2019, Cabinet's PA Committee received a presentation from the Ministry of Attorney General entitled 'Implementation of the German Report'. The Cabinet minute from that meeting reads, "The Committee supported the key decision points [in the presentation], including the use of a standards-based approach..."
- The BC Industry Gaming Association (BCGIA) supports the implementation of a standards-based model and GPEB and BCLC have been consulting with the BCGIA to determine how the model could be operationalized in BC.
- An exact replication of Ontario's model is not possible because many of the Ontario standards do not provide an objective or measurable standard that a person must meet to know whether they are or are not compliant. This means that in these cases, under the Ontario model, a person will not have certainty in knowing if they are acting contrary to law or not.
- BC can adopt a model similar to Ontario's by putting in place general manager's regulations for those matters that are objective and measurable and are intended to have legal effect as standalone provisions. Where it is intended that matters be more performance or outcomes based, the general manager can make policy reflective of those types of standards and could use performance or outcomes to make administrative decisions respecting licenses and registrations. It is expected that the majority of industry expectations will be outlined in such standards rather than regulations.

DISCUSSION:

Policy Intent of the New Regulatory Model

- BC is seeking to establish a more effective and flexible model that is relevant to a modern industry and able to evolve as advancing technology transforms the sector. To accomplish this, the regulator will have the independence, capacity and flexibility to adapt obsolete regulatory requirements quickly. It will also clearly define roles and responsibilities of the regulating and operating entities.
- The general manager compliance standards are intended to focus on outcomes and allow operators more autonomy and flexibility to determine the methods to meet regulatory requirements. However, where necessary for matters of higher risk, the model must also allow the regulator to set more prescriptive requirements.
- The regulator will also have strong administrative law powers for instances of non-compliance.
- Statutory tools are being developed to ensure the regulator's independence to set industry expectations are appropriately bound. This may take the form of LGIC

regulations or Act amendments on the same matters as general manager requirements and act as an override (similar to Ontario).

- To the extent the regulator's requirements are intended to have legal effect on their own and have the force of law, they must be objective and measurable and should be contained in a legislative document such as a statute or a regulation³. The standards could be developed as non-legislative compliance policies (or otherwise labelled) developed by the regulator that a statutory decision-maker (e.g., the general manager of the regulator) could consider when making decisions for regulated entities, including the imposition of regulatory sanctions (subject to the "standards" being worded to make sufficiently clear what a regulated entity must or must not do).

Model in Practice: Regulator Expectations for Industry

- The proposed regulatory model will clearly define roles and responsibilities between the regulator and industry, including BCLC. In doing so, the regulator will have clear authority to set expectations to uphold the integrity of gambling for categories specified in legislation. GPEB identified the following proposed categories through an internal risk assessment process and consultation with BCLC and industry:
 - Integrity of a Lottery Scheme
 - Technical Integrity
 - Security and Surveillance
 - Responsible Gambling and Player Protection
 - Control Environment and Internal Controls
 - Prohibitions
 - Record Keeping
 - Unlawful Activities
 - Training
 - Reporting Requirements
 - Consideration used in a lottery scheme and Anti-Money Laundering
- Appendix B outlines the purpose of each category and the risks standards would be intended to mitigate.
- Unlike Ontario, it will not be an offence to fail to comply with standards. The regulator will have the statutory authority to make decisions in respect of regulated entities, such as warnings, compliance plan requirements, additional conditions of licensing or registration, administrative monetary penalties, and suspension or

³ Both LGIC and general manager regulations would be required as LGIC regulations are needed as a key feature to ensure government has appropriate oversight of the regulator. As well, some matters would be more appropriate as LGIC regulations.

cancellation of a licence or registration which could take into consideration adherence to the standards.

- Further policy and legal work is required to determine the scope of potential compliance measures that may apply to BCLC (as they are not a registrant or licensee). These may take the form of statutory obligations on BCLC's board of directors.
- For matters of higher risk, the model will allow the regulator to set more prescriptive requirements through general manager regulations. Some of these regulations may overlap with the standards as required. General manager regulations will give the regulator an effective and flexible tool to set legally binding requirements.
- Additionally, the use of general manager regulations allows the regulator to set legally binding requirements. BCLC and registrants and licensees will fall under the same compliance regime for these regulations.

NEXT STEPS:

s.14

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Attachments:

Appendix A: Current Framework for Gambling Regulation in British Columbia under the *Gaming Control Act, 2002*

Appendix B: Summary of Categories for Regulator Requirements

Appendix A: Current Framework for Gambling Regulation in British Columbia under the *Gaming Control Act, 2002*

- The *Gaming Control Act* (GCA) establishes the regulatory framework for gambling in British Columbia, setting out the overarching roles and responsibilities for GPEB and BCLC. GPEB is responsible for administering the GCA with respect to the “overall integrity” of gambling and horse racing while BCLC is responsible for the “conduct and management” of gambling.
- BCLC contracts with private industry service providers through Operational Services Agreements (OSAs) for the day-to-day operation of gambling facilities. BCLC directly operates online gambling through its PlayNow.com platform.
- The GCA establishes GPEB as the gambling regulator as well as the entity responsible for providing policy advice to government on matters related to gambling integrity and revenue generation.
- Although GPEB regulates the companies, workers and equipment in the commercial industry through registration and certification requirements, it does not have the statutory authority to effectively regulate BCLC, the largest entity in the industry. Instead, the GCA envisions GPEB and BCLC acting in concert under a single Minister.
- GPEB was never intended to regulate BCLC because BCLC is an agent of government. The LGIC appoints the BCLC Board of Directors and the Minister has broad authority to provide direction to BCLC.
- GPEB also licenses organizations to operate gambling events for charitable purposes and licenses individuals in BC’s horse racing industry.

GM Directives to BCLC

- Section 28 provides the GM authority to issue directives to BCLC on matters specified in legislation. This section does not include comprehensive matters related to gambling integrity, but it does include some matters related to revenue generation. This authority is rarely used, and there have been three GM directives issued to BCLC since 2002.
- There are no statutory remedies available to the GM to address non-compliance with a directive; however, no specific incidents of non-compliance have arisen.

Public Interest Standards

- Section 27(2)(d) permits the GM to issue public interest standards for gaming operations. Compliance with these standards is a condition of registration for service providers under the *Gaming Control Regulation*. GPEB has issued three sets of standards since 2002: responsible gambling, advertising, and security and surveillance.
- In the case of service provider non-compliance, GPEB has a range of statutory remedies including warnings, fines, or suspension or cancelation of registration.
- s.14

BCLC Standards/Rules

- Under the OSAs, service providers have a contractual obligation to comply with BCLC's Standards. These standards set out comprehensive policies and procedures for all service providers to follow on a wide range of business matters, including issues related to gambling integrity. BCLC has contractual remedies to ensure service provider compliance.
- Sec. 34(1)(f) of the *Gaming Control Regulation* also requires service providers to comply with BCLC standard operating procedures and rules of play as a condition of registration, which in practice, GPEB has interpreted as BCLC Standards.
- This results in a scenario where GPEB audits service provider compliance with standards set by BCLC and may sanction service providers for non-compliance.

Appendix B: Summary of Categories for Regulator Requirements

Category	Purpose
Integrity of a Lottery Scheme	<p>This category would allow the regulator to set expectations on how the provincial gambling industry is expected to uphold the principles of soundness, fairness, incorruptibility and overall integrity of a lottery scheme.</p> <p>Examples of the types of risks these standards would seek to address include:</p> <ul style="list-style-type: none">• Lottery schemes that do not have transparent and consistent rules for the chances to win (e.g. odds on slots, changes to the total tickets available per raffle).• Online gambling systems that are vulnerable to hacking.• Cheating and conspiracy/collusion by gaming services providers (e.g. table game dealers).• Players who are connected (e.g., relatives, friends, associates) to gaming services providers, workers or others involved in a lottery scheme, win more frequently than the public.
Technical Integrity	<p>This category ensures all gambling equipment and supplies used in the conduct and management of gambling operate in a fair, honest, secure and safe manner to ensure the overall integrity of gambling.</p> <p>Examples of the types of risks these standards would seek to address include:</p> <ul style="list-style-type: none">• Equipment that lacks technical integrity or can be compromised (e.g. Random Number Generators (RNGs) with non-fair distribution and/or predictability, Percentage Return-to-Player (%RTP) values incorrect).• Use of untested and/or uncertified gaming equipment and supplies.• Gambling equipment's cash or operating components can be accessed by unauthorized people (e.g., slot machine door opens easily).

Security and Surveillance	<p>This category ensures provincial gambling and horse racing are sufficiently monitored and supervised to ensure an appropriate regulatory response to incidents is achievable.</p> <p>Examples of the types of risks these standards would seek to address include:</p> <ul style="list-style-type: none">• Ability to detect criminal behaviour such as cheat at play, employee theft and collusion, and money laundering.• The independence and objectivity of the surveillance department at a facility is compromised because of interference from other departments, fraternization with non-surveillance staff, and surveillance staff also working in other departments.• Minors, banned/prohibited, or voluntary self excluded individuals gaining access to the facility.• Unauthorized access ("hacking") of online platforms and/or IT systems.• Insufficient surveillance staff to monitor operations.
Responsible Gambling and Player Protection	<p>This category would allow the regulator to set requirements for the gambling sector in relation to responsible and problem gambling, centering around safe and responsible products, management, delivery, and consumption of gambling products and services.</p> <p>Examples of the types of risks these standards would seek to address include:</p> <ul style="list-style-type: none">• Addictive/predatory games, or new games with unknown risks to responsible gambling.• Lack of information/support available to support healthy play.• Misleading advertising.• Advertising to minors.• Lack of information about game rules and odds of winning.

Control Environment and Internal Controls	<p>This category is for the regulator to set expectations for industry participants on control environments and internal controls within their operations. If control environments and internal controls are inadequate, operations are at a higher risk of fraud and corruption, unaccountable decision-making, non-compliance with the regulatory framework, and other risks, all of which could compromise the integrity of gambling.</p> <p>Examples of the types of risks these standards would seek to address include:</p> <ul style="list-style-type: none"> • The regulator cannot effectively audit for regulatory assurance purposes because operators do not adequately document their control environment and internal controls. • Operators may cut or reduce the effectiveness of their control environments or internal controls over time (e.g. to reduce costs). • Operators may not keep their control environment or internal controls up-to-date, current, relevant, or effective.
Prohibitions	<p>This category would allow the regulator to set out how BCLC, licensees, and registrants must restrict access to gambling activities and spaces (including online gambling) for certain people, including:</p> <ol style="list-style-type: none"> a) minors and other classes of person (e.g. certain industry participants who may have conflicts of interest, such as certain gambling workers or regulator employees); b) individuals participating in BCLC's voluntary self-exclusion program (VSEs); and c) individuals specifically banned from gambling by a statutory decision maker. <p>Examples of the types of risks these standards would seek to address include:</p> <ul style="list-style-type: none"> • BCLC, registrants, or licensees failing to forbid individuals or request them to leave for misbehaviours, crimes, or offences.

	<ul style="list-style-type: none"> • Prohibited individuals accessing gambling spaces and participating in gambling activities. • Some individuals chronically violating their prohibitions, engaging in illegal behaviours, and failing to face consequences.
Record Keeping	<p>This category would allow the regulator to provide direction to industry participants on record keeping. Record requirements contribute to the integrity of gambling because records need to be made available to the regulator for the purposes of monitoring and for regulated entities to substantiate compliance under the regulatory framework.</p> <p>Examples of the types of risks these standards would seek to address include:</p> <ul style="list-style-type: none"> • Regulator cannot determine compliance with Act, regulations, standards, conditions, etc. because specific records are not kept. • Records are not supplied to the regulator in an acceptable format or the requested/preferred format (e.g., supplied in PDF when data should be in excel). • Service providers not retaining records for appropriate length of time. • Poor records – lack of organization, documentation or relevant information.
Unlawful Activities	<p>This category is to provide the regulator with the ability to set expectations for regulated persons to prevent or minimize unlawful activities during the operation of a lottery scheme, at a gambling facility or an electronic platform, or at a business connected to gambling.</p> <p>Examples of the types of risks these standards would seek to address include:</p> <ul style="list-style-type: none"> • The commission of Criminal Code offences clearly linked to gambling (e.g. Part VII offenses such as cheat-at-play, illegal lottery schemes etc.). • The commission of broader Criminal Code offenses indirectly linked to gambling (e.g. theft, fraud, loan sharking (s.347 Criminal Code), assault, sexual assault).

	<ul style="list-style-type: none"> • A commission of an offence under the GCA.
Consideration Used in a Lottery Scheme and Anti-Money Laundering	<p>This category is to allow the regulator to set expectations governing the use and types of financial instruments and other consideration permitted in the provincial gambling industry. It involves preventing patrons from using the proceeds of crime as consideration in gambling facilities and lottery schemes and allows the regulator to set expectations for different forms of financial instruments and consideration (e.g. gift cards, banks drafts, cryptocurrency).</p> <p>Examples of the types of risks these standards would seek to address include:</p> <ul style="list-style-type: none"> • The public may perceive a conflict of interest if the operator sets policies for its own AML efforts. • Insufficient procedures to verify the source of a patron's funds and measures to identify falsified source of funds materials. • The use of risky currencies, non-monetary consideration (e.g. valuable goods), foreign currencies, and/or alternative monetary instruments (e.g. cryptocurrency) that threaten the integrity of gambling. • Insufficient measures to ensure a patron's source of wealth is not derived from criminal activities.
Reporting Requirements	<p>This category allows the regulator to set expectations for industry participants on how to report to the regulator. This includes providing industry participants with direction and clarity on how to comply with reporting obligations set out in statute and regulations. Open and transparent communication and reporting ensures the regulator is aware of incidents or risks that may affect the integrity or public confidence in gambling.</p> <p>Examples of the types of risks these standards would seek to address include:</p>

	<ul style="list-style-type: none">• Failure of industry participants to report incidences that concern the integrity of gaming.• Lack of transparent communication between the Regulator and industry participants.• Industry participants not providing accurate and complete information.• Lack of clarity/specificity on what information is required to be reported to the regulator.
Training	<p>This category allows the regulator to set expectations on the provision of training for regulated persons. Without appropriate training, staff and volunteers in the gambling industry may not be equipped to comply with the regulatory framework, which could compromise the integrity of gambling.</p> <p>Examples of the types of risks these standards would seek to address include:</p> <ul style="list-style-type: none">• Staff of regulated persons lack adequate knowledge on how to comply with the regulatory framework. Staff and volunteers may not know or have the most up-to-date knowledge on topics such as:<ul style="list-style-type: none">○ how to correctly detect and respond to symptoms of problem gambling or unlawful activities such as fraud, cheat-at-play, and money laundering;○ how to respond to security and surveillance issues;○ how to report incidents of inappropriate conduct; and○ how to comply with other laws, regulations, and standards.

**MINISTRY OF ATTORNEY GENERAL
GAMING POLICY AND ENFORCEMENT BRANCH
BRIEFING NOTE**

PURPOSE: For INFORMATION of David Eby, QC
Attorney General

ISSUE: Unregulated Online Gambling

SUMMARY:

- s.13; s.14; s.17

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- The Government of Ontario announced it is pursuing a “competitive market for online legal gambling that will reflect consumer choice” and has completed industry consultation. It is expected Ontario will move forward with implementation in 2020.
- GPEB has discussed the design of Ontario’s regulatory model for licensed online gambling with Ontario’s gambling regulator. As it would be the first of its kind in Canada, it would set industry expectations for a similar model in any other province.

BACKGROUND:

- s.13; s.14; s.17

- s.13; s.14; s.17

Memorandum of Argument
s.14

s.14

- s.13

Risk Analysis

- s.13; s.14

Online Gambling in Ontario

- Ontario's 2019 budget stated; "...the Province intends to establish a competitive market for online legal gambling that will reflect consumer choice while protecting consumers who play on these websites."³
- Ontario is moving quickly to pursue implementation of a model for online gambling that brings unregulated online gambling operators into a regulated framework. They

s.13; s.14

have completed industry consultations and are on track to introduce enabling legislation in 2020.

- s.14; s.16

Previous Actions

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- s.17

- In October 2019, in response to a Treasury Board request to identify opportunities to increase revenue, BCLC received approval to increase weekly deposit limits on PlayNow from \$9,999 to \$100,000 and to increase individual player account balance limits from \$9,999 to \$250,000. BCLC expects this change will attract new high value players and broaden its opportunity to compete with unregulated sites.

Next Steps:

- s.13; s.14; s.17

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⁴ The percentage of British Columbian's gambling online grew from 15% to 20%.

⁵ The percentage of British Columbians playing exclusively on PlayNow declined from 37% to 27% and the percentage of British Columbians playing on both PlayNow and unregulated sites declined from 21% to 7%.

⁶ This would include both domestic and international operators as well as current land-based services providers.

- Analysis could be undertaken to estimate revenue projections under a licensing model. In 2018, BCLC completed preliminary analysis of revenue impacts of different models; however, analysis relied on the assumption that unregulated operators could be fully blocked under any given model, which is not possible. BCLC would need government to provide a description of the specific attributes of a proposed licensing model to provide more accurate analysis of revenue projections.

OTHER ENTITIES IMPACTED:

- BCLC currently operates a successful, regulated online gambling platform in BC, ^{s.1}
_{s.13; s.17}

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Attachment(s)

Appendix I – Memorandum of Argument
Appendix II – Risk Analysis

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Withheld pursuant to/removed as

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**MINISTRY OF ATTORNEY GENERAL
GAMING POLICY AND ENFORCEMENT BRANCH
BRIEFING NOTE**

PURPOSE: For DECISION of David Eby, QC
Attorney General

ISSUE: Strengthen the role of BC's gambling regulator in anti-money laundering and address Dr. German's recommendation to make anti-money laundering a responsibility of the regulator (R30).

RECOMMENDATION: Option 1 – Amend the *Gaming Control Act* to establish the BC gambling regulator's authority to set and enforce AML requirements that are compatible with federal criminal law and proceeds of crime legislation.

SUMMARY:

- BC's *Gaming Control Act* (GCA) does not contain provisions that authorize the regulator to set and enforce anti-money laundering requirements for the commercial gambling industry.
- The BC Lottery Corporation (BCLC) is BC's reporting entity for casinos and online gambling under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA), and therefore has obligations under federal law to maintain a compliance program and establish policies to mitigate money laundering risk.
- Amending the GCA to establish the authority for the regulator to set and enforce new provincial regulatory AML requirements for BCLC and the commercial gambling industry would clarify and strengthen the regulator's role in mitigating the risks of money laundering in casinos (including PlayNow¹ online casino).

BACKGROUND:

- Under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PCMLTFA), the entity responsible for the "conduct and management" of gambling is accountable for the PCMLTFA reporting and compliance obligations. Under the *Gaming Control Act* (GCA), BCLC conducts and manages gambling on behalf of the government and is therefore accountable under the PCMLTFA.
- The PCMLTFA requires reporting entities like BCLC to maintain a comprehensive compliance program, conduct ongoing monitoring of business relationships and high-risk clients, and comply with all transaction reporting requirements such as Suspicious Transaction Reports (STRs) and Large Cash Transactions (LCTs) (see Appendix A).

¹ PlayNow is BC's regulated online gambling platform and is operated by the BC Lottery Corporation.

- Non-compliance with the PCMLTFA may result in criminal or administrative monetary penalties (AMPs) against reporting entities up to \$500,000 per occurrence for “very serious violations.”² Additionally, individuals employed by the reporting entity could be penalized up to \$100,000 per occurrence for “very serious violations.” AMPs for non-compliance cannot be downloaded onto service providers, and the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) is required to make all AMPs public.
- Under the current model, service providers in land-based casinos report Unusual Financial Transactions (UFTs) to BCLC. BCLC reviews, and upon establishing reasonable grounds to suspect those transactions are related to money laundering or terrorist financing submits STRs to FINTRAC.
- BCLC, as the operator of PlayNow.com, reports online STRs directly to FINTRAC.
- s.15
- As part of BCLC’s PCMLTFA obligations, BCLC advised that as of December 30, 2019, it was monitoring^{s.15} business relationships³ for land-based gambling, and s.15 business relationships on PlayNow. Based on BCLC’s risk tolerance,^{s.15} of these business relationships are high risk. (See Appendix B for additional data and costs.)
- The Gaming Policy and Enforcement Branch (GPEB), the provincial gambling regulator, receives all UFT and STR information through section 86 reports⁴.

DISCUSSION

- The German report identified challenges with the province’s anti-money laundering regime, including that:
 - There is an inherent conflict of interest with the entity responsible for generating gambling revenue also setting policy expectations for anti-money laundering;
 - Enforcement of money laundering has not been done effectively; and
 - The gambling regulator has had limited access to data and information to monitor trends and effectively investigate incidents of money laundering.

² The PCMLTFA and the Proceeds of Crime (Money Laundering) and Terrorist Financing Administrative Monetary Penalties Regulations classify violations as “minor”, “serious”, and “very serious”.

³ The Proceeds of Crime (Money Laundering) and Terrorist Financing Regulation requires a reporting entity to conduct ongoing monitoring of a business relationships, which is established when a client has an account with the reporting entity, or when a client’s identification has been verified at least twice.

⁴ Section 86 of the *Gaming Control Act* requires BCLC, registrants and licensees to notify GPEB’s general manager of any conduct or activity connected to a lottery scheme or horse racing that may involve a commission of an offence under the *Criminal Code* or the GCA.

- Since 2018, GPEB and BCLC have collaborated to make significant improvements to address potential money laundering risks in BC casinos.⁵ However, it is BCLC and not GPEB (as the regulator) that sets anti-money laundering policies and procedures for BC's commercial gambling industry, such as policies for classifying high risk patrons, collecting patron data and monitoring business relationships.

Regulator as the Reporting Entity

- In the course of determining the regulator's role in anti-money laundering, GPEB has been asked to explore whether the regulator should be the reporting entity to FINTRAC.
- FINTRAC has advised that the gambling regulator could be the reporting entity as long as it has a role in conducting and managing gaming as per the PCMLTFA.

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Cross Jurisdictional and Organizational Analysis

- Other reporting entities under the PCMLTFA are revenue generating entities that are responsible for accepting transactions that may be large and/or suspicious.
- There are two provincial gambling regulators that report to FINTRAC. The Alberta Gaming and Liquor Commission, which operates under a charitable gaming model as a Crown commercial enterprise and agency, has a dual responsibility to regulate and conduct and manage gambling in Alberta. The Saskatchewan Liquor and Gaming Authority is the gambling regulator but is also a reporting entity to FINTRAC because it conducts and manages slot machines and dice games in casinos operated by the Saskatchewan Indian Gaming Authority. Regulators in other provinces are not reporting entities to FINTRAC.

Establishment of AML requirements in the GCA and regulations

- Preventing funds obtained through criminal activity from being used to gamble in BC's gaming facilities and on PlayNow.com is fundamental to preserving the integrity of gambling.
- In order to protect the government's gambling revenue from including the proceeds of crime, deter the presence of organized crime in or near the province's gambling facilities, and prevent large buy-ins where the source of funds cannot be substantiated, the GCA and corresponding regulations could be amended to:
 - Create statutory obligations for BCLC, service providers, and gaming workers that aim to mitigate and deter money laundering in the BC gaming industry and establish corresponding offence provisions for non-compliance. Obligations could include source of funds requirements;
 - Create statutory obligations on patrons that deter and prevent the use of unsourced funds or falsified information, and establish corresponding offence provisions;
 - Ensure appropriate statutory authorities for investigators to enforce new provisions under the GCA; and

- Ensure appropriate statutory authorities for the regulator to access information from BCLC and gaming services providers, for the purposes of administering and enforcing the Act, while also remaining compliant with privacy legislation.
- As the regulator would continue to administer and enforce the GCA and its regulations, these new provisions would be the responsibility of the regulator and would ensure anti-money laundering in the provincial gambling industry, subject to limitations associated with federal criminal law, is effectively within the scope of the regulator's authorities (see Appendix C for proposed new requirements).
- BCLC has indicated it supports the requirement for BCLC and industry to follow the regulator's AML requirements. BCLC has also indicated that it supports enabling the regulator to access its information to support trend analysis, policy development and enforcement of the GCA.
- s.14

OPTIONS:

Option 1 – RECOMMENDED – Amend the GCA to establish the BC gambling regulator's authority to set and enforce statutory obligations for BCLC, gaming service providers, gaming workers, and patrons that deter and prevent the proceeds of crime from being used to gamble.

Amendments would create obligations and, where appropriate, corresponding offence provisions for BCLC and service providers, gaming workers, and patrons, that are compatible with federal criminal law and proceeds of crime legislation. The regulator would have sufficient and appropriate statutory authority to set requirements, ensure compliance and enforce the provisions and access necessary information. BCLC would continue to be the reporting entity to FINTRAC for land-based and online gambling.

Implications:

- Addresses German's recommendation 30.
- Provides the regulator with authority to set and enforce provincial statutory obligations around AML.
- Service providers and BCLC can be held accountable for non-compliance with provincial regulatory requirements related to AML.
- Process for reporting to FINTRAC remains status quo.
- Requires legislative amendments.

- The regulator continues to be notified through s.86 reports when UFTs and STRs are generated, which informs investigations and intelligence gathering.
- s.14

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OTHER MINISTRIES IMPACTED/CONSULTED:

- BCLC



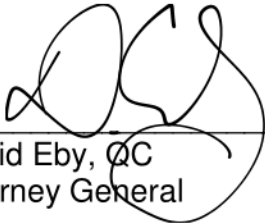
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Approved by:

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APPENDIX A:

FINTRAC REQUIREMENTS (High Level Summary)

- The PCMLTFA requires reporting entities like BCLC to:
 - maintain a comprehensive compliance program (including risk assessments, AML training for employees and Board members, and biennial effectiveness reviews/audits);
 - verify client identity ("Know Your Client") and conduct ongoing monitoring of business relationships and high-risk clients;
 - comply with record-keeping requirements; and
 - comply with all transaction reporting requirements, including suspicious transaction reports (STRs), applicable electronic funds transfers, large cash transactions and casino disbursement reports.
- The PCMLTFA also requires the reporting entity to identify its Compliance Officer, who must have:
 - necessary authority and access to resources in order to implement an effective compliance program and make any desired changes;
 - knowledge of the business's (reporting entity's) functions and structure;
 - knowledge of the sector's money laundering and terrorist financing risks, vulnerabilities, trends and typologies; and
 - an understanding of the sector's legal requirements under the PCMLTFA and associated regulations.

APPENDIX B

Reporting Entity Compliance Obligations and Cost Analysis

- As of December 30, 2019, BCLC advised it was monitoring 21,292 business relationships for land-based gambling, and 195,128 business relationships on PlayNow. Based on BCLC's risk tolerance, 1,647 of these business relationships are high risk.
- From January 1st to December 31, 2019, BCLC received^{s.15} UFTs from service providers and reported 320 STRs to FINTRAC. This total includes 67 historical STR reports filed for incidents that occurred between 2014 and 2018.
- s.15
- BCLC's AML personnel are certified through the Association of Certified Anti-Money Laundering Specialists (ACAMS). Certification costs \$1300 USD and recertification is required every three years. Additional costs include \$48,000 USD for BCLC's ACMS membership; \$21,000 USD in conference fees; and \$20,000 USD in course fees.
- s.15
- In addition to subscription services to support customer due diligence, BCLC uses gaming information and AML tracking software systems, which are nearing their end of life and rely on manual input from service providers.
 - BCLC has released a Request for Proposals to seek a software solution to replace its existing aging systems, and further automate and streamline anti-money laundering processes and analysis of gambling activity.

s.15

APPENDIX C

Proposed New Provincial Anti-Money Laundering Statutory Obligations

POLICY INTENT

- Money laundering can disrupt the economy by distorting prices (e.g. of residential real estate) and improving the rewards of criminal activity relative to legal, productive economic activity,⁶ and organized crime has used casinos to launder the proceeds of crime.
- Gambling involves three key elements: prize, chance and the exchange of consideration (e.g. money). Mitigating the risks of proceeds of crime being used to gamble in BC's gaming facilities and PlayNow.com is integral to preserving the integrity of gambling.
- Profits generated from regulated gambling is government revenue, therefore, government has an interest in protecting the integrity of the source of this revenue.
- Although the amount of unsourced cash used in BC casinos has declined significantly since the number of suspicious transaction reports peaked in July 2015, further systemic changes can help to mitigate the risk that proceeds of crime will be used to "buy in" at BC casinos.
- The overarching policy intent is to include provisions in the *Gaming Control Act* (GCA) that:
 - Safeguard BC's gambling facilities and PlayNow.com from being used to launder the proceeds of crime to maintain the integrity of gambling;
 - Deter individuals from using the proceeds of crime to gamble in BC's gambling facilities and on PlayNow.com;
 - Deter the presence of organized crime in or near gambling facilities to protect public safety; and
 - Protect the government's revenue source by ensuring it does not include the proceeds of crime.
- To achieve these goals, GPEB proposes an approach that creates obligations and corresponding offence provisions for BCLC and service providers, gaming workers, and patrons.

⁶ <https://www2.gov.bc.ca/assets/gov/housing-and-tenancy/real-estate-in-bc/combating-money-laundering-report.pdf>

- Recommendation 30 of Peter German's Dirty Money: Part 1 report is that anti-money laundering be a responsibility of the regulator. GPEB is proposing to implement this recommendation by ensuring the regulator has:
 - a role in setting requirements for the commercial gambling industry to mitigate and deter money laundering;
 - responsibility for and appropriate statutory tools to enforce new requirements and offences under the GCA.
- Flexibility should be maintained, where appropriate, for BCLC and service providers to meet the overarching policy intent in line with the standards-based approach that has been approved by Cabinet.
- s.14

CREATE NEW OBLIGATIONS ON BCLC AND SERVICE PROVIDERS

Establish Source of Funds Policy in Legislation and Regulation

- Effective January 10, 2018, BCLC implemented a Source of Funds policy that requires patrons to provide a Source of Funds Declaration and a receipt for all cash and monetary instruments of \$10,000 or more, whether in a single transaction or as the total amount of all incremental buy-ins in a 24-hour period.
- This policy has resulted in a dramatic decline in the volume of unsourced funds entering BC's gambling facilities.
- Enshrining these policy goals in an enactment would ensure the longevity of the requirements and create a role for the regulator in establishing, and ensuring compliance with, the requirements.
- Requirements would need to be able to allow for adaptation to address current risks, industry changes and feedback from stakeholders.

Proposed Provisions:

- s.12

- An offence provision for BCLC or for a gaming service provider that contravenes the requirement or allows a patron to buy-in in circumstances where the requirement to provide a Source of Funds Declaration is not satisfied.

- s.12; s.13

Right to Refuse Entry

- GCA section 92(1) provides the authority to the GM or to BCLC, or a person acting on behalf of BCLC, to refuse entry or to forbid an individual whose presence is deemed “undesirable”; this is done by way of written notice, which must specify a time period to which it applies. The term “undesirable” is not defined in statute.

- s.12; s.13

Proposed Provisions:

- s.12; s.13

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OBLIGATIONS FOR ONLINE GAMING SERVICE PROVIDERS (BCLC)

- s.12; s.13

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Proposed Provisions:

- s.12; s.13

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CREATE NEW OBLIGATIONS FOR GAMING WORKERS

- Gaming workers are responsible for processing patron buy-ins and thus have an integral role in preventing unsourced funds (i.e. monies for which the source cannot be substantiated) from entering BC's gambling facilities to ensure the continued integrity of gambling.
- Similar to the sale of alcohol, tobacco or lottery products to minors, legislation prohibiting workers' acceptance of unsourced funds would act as a deterrent for workers to accept funds without proper documentation.
- Gaming workers would also continue to be subject to administrative sanctions (e.g., warnings, suspension or cancellation of registration) if they are found to not be in compliance with the conditions of their registration.

Proposed Provisions:

- An offence provision for gaming workers who knowingly allow a patron to buy-in in circumstances where the requirement to provide a Source of Funds Declaration (see above) is not satisfied.
- s.12; s.13

CREATE NEW OBLIGATIONS ON PATRONS

- Presently the gambling regulatory model sets obligations for BCLC, gaming service providers, gaming workers, and charitable and horse racing licensees. The GCA does not place obligations on patrons, aside from unlawfully entering or remaining on the premises of a gaming facility.⁷

⁷ There are also provisions related to operating unauthorized lottery schemes, or not being a registered gaming worker, etc., but the focus of this bullet is on patrons who wish to participate in the gambling activity, rather than operate or be employed in the activity.

- Patrons should be obliged to use only funds obtained through legitimate means to gamble in BC's gambling facilities and online. Creating these obligations would deter individuals from using the proceeds of crime or funds where the source is unsubstantiated to buy-in or attempt to buy-in at BC's gambling facilities.

Proposed Provisions:

- s.12

- s.12

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- s.12

EXPAND AUTHORITIES OF GPEB INVESTIGATORS

- s.12

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⁸ FINTRAC requires "authentic, valid and current government issued photo identification." Presumably provincial requirements would have the same at minimum and allow for GM regulations to specify whether additional criteria must be met.



BRIEFING NOTE

CLIFF #567045

Prepared for: HON. DAVID EBY, Q.C. Attorney General and minister responsible for ICBC, for **INFORMATION**

Subject: ICBC's Accountability Plan

Issue: Government will be publicly announcing ICBC's Accountability Plan in late January 2020 (exact date TBC)

Background:

- According to a recent syndicated brand study by Ipsos, public trust levels in ICBC are at long-time lows.
- To begin the process of rebuilding its position as a trustworthy partner for customers and stakeholders, ICBC is exploring new ways to interact with customers, as well as enhancing and revitalizing other key strategies as outlined below.

Discussion:

- The goal for the Accountability Plan is to demonstrate that ICBC is taking action to hold itself more accountable and to help with the successful launch and delivery of the Autoplan Care Enhancements (ACE) project.
- Recent research for ACE found skepticism in the benefits of the changes. Focus group participants suggested the changes in benefits under ACE were too good to be true since they can't trust ICBC.
- It is important that work to begin to rebuild trust with the public takes place prior to the announcement of ACE, planned for early February 2020 to help support public acceptance of the changes and impact/believability of the cost savings and increased care coverage.
- As a result, ICBC has developed a plan to begin to rebuild trust with customers and stakeholders and is proposing a number of integrated measures to demonstrate increased accountability:

Enhance ICBC's Customer Advisory Panel: Ensure British Columbians are regularly consulted on a variety of topics providing them an opportunity to influence future business decisions. Panelists can expect a greater breadth of topics and more frequent engagement opportunities including share-backs where ICBC will share select results and how they were used to make customer-driven decisions. A recruitment push to promote the online panel will be planned to follow after the January announcement.

Explore new ways to communicate with customers: Beginning in February 2020, ICBC will take a more proactive approach to engage and interact directly with customers. Tactics will be refined in January but could include: bi-annual virtual town halls; pilot online presentations to targeted audiences (new or young drivers, new immigrants and seniors); and, increased social-media presence with Facebook or Twitter live events or Q&As on reddit.com. These communications will focus on timely and factual information relevant to

customers' needs, including providing transparency into what their premium goes towards.

Create a customer-friendly Annual Report: In addition to ICBC's existing formal annual Service Plan report, prepare a customer-focused easy to read version to tell ICBC's story of the past year and provide more understandable financial and operational information, including facts and figures that would resonate more with customers, including a breakdown of how the average premium dollar is spent. This would be published at the same time that the annual Service Plan report gets filed in mid-July.

Build upon ICBC's road safety stewardship: Move beyond what ICBC currently does for its regular road safety awareness campaigns and road improvement program with new initiatives, such as: piloting signage highlighting contributions of road improvement program; strategic partnerships with road safety stakeholders (e.g. municipalities, TransLink, etc.); and, increased presence in communities. Co-branding with some of these partners is one way to expand the reach of road safety education and awareness initiatives. Partnerships also bring more credibility to the message. Work has already started to develop scope and timelines of the initiatives and will be fully implemented by the end of March 2020.

Build awareness of Civil Resolution Tribunal: Highlight the benefits of an independent resolution process to customers; explain the role of this third-party body plays in the claims process. Tactics could include: providing more information on the step-by-step claims process and claims review options; developing messaging for community and public presentations; provide printed collateral at the claims centres; and, targeted social media and earned media activities. Work would begin in early May of 2020 with the aim of making a further announcement by mid-July.

Continue Rate design education: Tactics could include: creating a customer-friendly executive summary and other plain language communications tactics to support ICBC's formal Basic rate filings; and, refining the package of material available to customers as part of their renewal notices. Work has already begun and is expected to be completed by August 2020.

- ICBC is putting measures in place to monitor the ongoing progress of these initiatives that will include how ICBC is doing in building trust
- Government plans to announce these tactics to the public as part of a bigger package of initiatives in late January (between January 23-31, 2019 – exact date TBC).
- Separate from this plan, ICBC is working with the Ministry of Attorney General to consider an update to the role of ICBC's Fairness Commissioner. This updated role would respond to customer concerns and complaints as today but also regularly report to the public and make recommendations and reports on where ICBC needs to improve in the area of customer fairness.
- There is a risk that media commentators may point out that there is little new news in the announcement, as ICBC already has an annual report, etc. Critics of ICBC may also point these tactics are standard fare for any public entity and criticize ICBC for not bringing about substantive change.

ICBC BRIEFING NOTE

- ICBC will revisit the plan following the ACE announcement to add more tactics and continue to implement new strategies.

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Date: 17 December 2019